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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,582	09/05/2006	Sergio Mansueto	3144-103	7381
6449 7590 02/17/2010 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
EXAMINER ALL, MOHAMMAD M				
ART UNIT 3744		PAPER NUMBER		
NOTIFICATION DATE 02/17/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary

Application No.

10/598,582

Applicant(s)

MANSUINO, SERGIO

Examiner

MOHAMMAD M. ALI

Art Unit

3744

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-14, 16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 16 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date 01/05/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "control unit" for claims 1, 22 and 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1—2, 5-7, 10-13 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanizawa Tatsuya herein after Tanizawa (JP 6-303907 A).

With regards to claims 1, 11, 17 and 18 Tanizawa discloses a device for molding foodstuff masses, characterized in that it comprises: - a mould (1, Fig 3) provided with at least one socket (26, Fig. 4) defining a pouring cavity (see Figs 3-4); at least one insert made (25) of thermally conductive material associated, in a heat-exchange relationship, with said pouring cavity; and at least one thermal-conditioning unit (cooling water jacket 70, and or heater 18, Fig. 6), associated to said insert made of thermally conductive material; at least one set of sockets (25) of said plurality have associated to said insert made of thermally conductive material that are distinct; a conveying structure (2, 60, Figs 2, 5) for moving a plurality of said molds (1, for plurality of molds 1, see Fig 1), a control unit for generating control signals of said thermal conditioning unit (70/18) according to a cycle selectively predetermined for the thermal treatment of the material undergoing molding in course of the advance along said path. Regarding control unit, the cooling jacket and the heater unit and a vibrating unit is being controlled by some device which is a control unit.

With regards to claim 2, Tanizawa discloses: characterized in that said at least one insert made of thermally conductive material defines at least part of the surface of said pouring cavity (1, see Figs. 3 and 4).

With regards to claims 5 and 19, Tanizawa discloses: characterized in that said thermal-conditioning unit is stably associated to said mould (see Figs. 2 and 6).

Regarding claims 6 and 20, Tanizawa discloses that thermal conductive unit (60) is incorporated in said mold (18).

With regards to claim 7, Tanizawa discloses: characterized in that said mould (1) has a body made of thermally insulating material (because in face cooling or heating arrangement to sustain coolness or hotness, the body material of the mold to be insulating in nature).

Regarding claims 10 and 12, Tanizawa discloses that some sockets (26) of said plurality have associated thereto a thermal conditioning unit (70/18) common to a number of sockets (26).

Regarding claim 11,

With regards to claim 13, Tanizawa discloses: characterized in that said mould (1) has contact elements which emerge on the outer surface of the mould (1) itself for the electrical supply (the mold 1 is contacting cooler 70 through its fin and thus contacting with the electric supply line to the pump 21 or heater 18) of said at least one thermal-

conditioning unit (electrical supply, see Figs.6).

Regarding claim 21, Tanizawa discloses that the processing unit (inherent but not shown) is a microcontroller. See Fig.8.

Regarding claim 22, Suzuki discloses that the processing unit (32) associated at least one mold (18) for condition operation of said at least one thermal conditioning unit (21, See Figs. 8, 11 and 12) and a line (see Fig 8, for the line) for the transfer of said control signals from said control unit (32) to said processing unit (31, see Fig. 8) associated to said at least one mold (18).

Regarding claim 23, Suzuki discloses that plurality of said mold (cavities with 18) and in that said control unit (32) is configured for transmitting encoded signals to the processing units (31) associated to the molds (18) said encoding indentifying selectively the mould to which a given control signal is sent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-4, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanizawa in view of Suzuki (US 5,029,446). Tanizawa discloses the invention substantially as claimed as stated above except thermoelectric cooling device and controller. Suzuki teaches the use of a thermoelectric cooling device (21) with control circuit (32) for the purpose of selectively cooling the cooling container placed in a mold (15). Regarding further details of control for thermal treatment of food stuff and movement of the foodstuff is well known as discloses by the applicant . See page 18, lines 7-20 of the Applicant specification.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the food stuff molding device of Tanizawa in view of Suzuki and in view of the Applicant disclosure such that thermoelectric cooling device with controller could be provided in order to cool the food product in a controlled way.

Claims 14, 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanizawa and Suzuki in view of Grandi (US 5,101,714). Tanizawa and Suzuki discloses the invention substantially as claimed as stated above except a slider (conveyor) to move mould. Grandi teaches the use of a slider (conveyor 45, Fig. 5) for the purpose of moving mold (19, the Examiner considering the box 19 as a mold holding products with another male mold as taught by Suzuki) in a refrigeration unit to cool the

product. However, moving a mold in a refrigeration unit is an old feature in the art and it has been acknowledged by the Applicant in the background of invention.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigeration unit of Suzuki in view of Grandi or to modify the refrigeration unit of Grandi in view of Suzuki such that a moving a conveyor could be provided in order to move the mold or product to increase cooling efficiency of the of the refrigeration unit or provide mold with product in order to cool while moving with the conveyor.

Response to Arguments

Applicant's arguments with respect to claims 1-7 and 10-14, 16, 18-24 have been considered but are moot in view of the new ground(s) of rejection as explained above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD M. ALI whose telephone number is (571)272-4806. The examiner can normally be reached on maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohammad M Ali/
Primary Examiner, Art Unit 3744